



## HRAR - 6.05 (B) Oregon Paid Family and Medical Leave

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

Policy category: [Leaves](#)

Policy number: HRAR - 6.05 (b)

City of Portland Core Values:

*Anti-racism | Equity | Transparency | Communication | Collaboration | Fiscal Responsibility*

Search Code, Charter, Policy

Keywords

Search

[HRAR-6.05 \(B\) - Oregon Paid Family and Medical Leave \(full text of policy\)](#)

81.21 KB

### Purpose

Under Paid Leave Oregon (PLO), eligible employees may be entitled to a leave of absence with partial or full wage replacement benefits from the State of Oregon Employment Department ("OED") for absences due to their own serious health condition (medical leave), to care for a family member with a serious health condition or bond with a new child (family leave), or for survivors to deal with the ramifications of domestic violence, criminal harassment, sexual assault or stalking (safe leave).

### Employee Eligibility

Employees who work in Oregon and earned at least \$1,000 from any Oregon employer in the year before they apply for Paid Leave may be eligible for benefits. Additional rules may apply to employees performing work in more than one state.

### Reasons for and Length of Leave

During a benefit year, eligible employees may be entitled to:

- Up to 12 weeks of paid family or safe leave: (1) to care for a family member with a serious illness or injury; (2) to bond with a new child after birth, adoption or foster care placement; (3) during one's own serious health condition; or (4) for survivors of sexual assault, domestic violence, criminal harassment, or stalking.

- Medical leave may be extended up to an additional two weeks (i.e., up to 14 weeks of paid medical leave benefits) if the employee experiences a pregnancy-related health condition, including but not limited to lactation issues.
- Employees may also be entitled to additional unpaid leave benefits as well, subject to the provisions of the FMLA, OFLA, ADA, or other leave laws. To the extent possible, an employee's Paid Leave Oregon entitlement will run concurrently (at the same time) with any FMLA/OFLA leave that the employee qualifies for.

An employee is not entitled to Paid Leave Oregon benefits for any week they are eligible to receive (1) workers' compensation, (2) unemployment benefits, or (3) other such exclusions as may be dictated by the OED.

## Definitions

- **"Benefit year"** means the 52-week period beginning the Sunday before leave begins.
- **"Family Member"** means the employee's spouse or domestic partner, child, parent, grandparent, grandchild, sibling, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship, as determined by the State of Oregon.
- **"Child"** means a biological, adopted, or foster child, a stepchild, legal ward, or a child to whom the employee stands in loco parentis, a legal guardian, as well as the "child" of the employee's spouse or domestic partner.
- **"Parent"** means the biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or state registered domestic partner, or an individual who stood in loco parentis to an employee when the employee was a minor, as well as the "parent" of the employee's spouse or domestic partner.
- **"Grandchild"** means a child of the employee's child or the grandchild's spouse or domestic partner.
- **"Grandparent"** means a parent of the employee's parent or the grandparent's spouse or domestic partner.
- **"Sibling"** means the sibling or stepsibling of an employee or the sibling's or stepsibling's spouse or domestic partner.

## Wage Replacement Benefits

Eligible employees may receive wage replacement benefits from the OED. Wage replacement benefits are determined and administered by the OED, not the City. The amount of wage replacement benefits is calculated based on an employee's average weekly wage in relation to the state average weekly wage and is capped at a maximum weekly benefit amount that is

adjusted annually. Payment of wage replacement benefits may be subject to a waiting period as determined by the OED.

## **Intermittent and Reduced Schedule Leave**

Employees may take Paid Leave Oregon intermittently, which means taking leave in blocks of time less than a full workweek. Leave can be claimed in units as small as one workday.

## **Payroll Deductions**

Paid Leave Oregon benefits are funded by a contribution rate determined by the State of Oregon.

## **Requesting Leave**

Employees must file an application for Paid Leave Oregon benefits directly with the OED using the OED's forms, available at [paidleave.oregon.gov](https://paidleave.oregon.gov). Employees must also provide advance notice to the City as follows:

- When the need for PLO leave is foreseeable—e.g., an expected birth, placement of a child, or planned medical treatment for a serious health condition—the employee must provide written notice to the City at least 30 days in advance.
- When 30 days' notice is not possible, such as because of a lack of knowledge of approximately when PLO leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide written notice to the City as soon as practicable. "As soon as practicable" means as soon as it is both possible and practical to provide notice, taking into account all of the facts and circumstances in the individual situation.
- If an employee commences leave without prior notice, the employee must give oral notice to the employer within 24 hours and written notice within three days.
- Oral notice for unforeseeable leave may be given by anyone on behalf of the employee.
- Written notice for unforeseeable leave may be given by the employee's emergency contact person, or any other person otherwise specifically designated by the employee in the employer's records.

Written notice should be provided to the employee's manager or supervisor and specify the (1) employee's first and last name, (2) the type of leave, (3) an explanation of the need for leave, and (4) anticipated timing and duration of the leave. Written notice includes, but is not limited to, handwritten or typed notices, and all forms of written electronic communications such as email. Failure to provide timely notice may result

in the OED reducing an employee's first week of paid leave benefits by up to 25%.

Employees must advise the City as soon as practicable if the dates of a scheduled PLO leave change or are extended, or if the dates of leave were initially unknown. Employees applying for PLO benefits must provide the OED supporting documentation or attestation as required by the OED.

When using PLO concurrently with FMLA, employees must comply with the notice and certification requirements found at [HRAR 6.05 \(A\)](#) Family Medical Leave.

When possible, an employee must make a reasonable effort to schedule treatment or supervision at times that will minimize disruption of the City's operations, subject to the approval of the employee's or family member's health care provider.

## Health Benefits

If an employee has been employed by City for at least 90 days, the City will continue making contributions to employee group health benefits during the PLO leave on the same terms as if the employee had continued to actively work. Employees must continue to make the same premium payments that they are normally required to make for themselves or their dependents.

## Effect on Other Rights and Paid Leave

When both FMLA and PLO apply, the leave provided by each will count against the employee's entitlement under both laws, and leave taken under FMLA will run concurrently with leave taken under PLO. Similar provisions apply for leave taken under both OFLA and PLO.

Employees may use accrued and eligible leave accruals in addition to receiving Paid Leave Oregon benefits to replace their wages during a period of qualifying Paid Leave by the OED. This is known as **"topping off."** Employees must affirmatively request that City "top off" of payments by the OED with accrued PTO. "Topping off" is only available upon written request by the affected employee. Employees may "top off" the PLO benefit to supplement of the employee's average weekly wage, the amount adjudicated by the OED must be communicated promptly by the employee to City, so that the appropriate accrual usage charge may be calculated and paid. The employee must promptly notify the City of any changes to the wage replacement benefits they request or receive from the OED.

Paid time off will accrue only on the monies paid by the City that the employee has elected to access to supplement PLO benefits. PLO benefits

paid by the State will not accrue paid time off.

## **Return from Leave**

Employees who were employed at least 90 days before going out on PLO and who return to work as scheduled at the end of PLO will be reinstated to the same position they held at the time the leave commenced, or to an equivalent position with comparable benefits, pay, and other terms and conditions of employment, if the position no longer exists.

For employees who do not meet the requirements for job reinstatement under Paid Leave Oregon, reinstatement is not guaranteed. Other laws that provide for reinstatement may apply, and the City will comply with all applicable reinstatement requirements.

## **Protected Rights**

The City takes its Paid Leave Oregon obligations very seriously and will not interfere with, restrain or deny the exercise of any right protected under PLO. The City will not discriminate or retaliate against any employee because that person uses or attempts to use PLO benefits. Employees who believe their PLO rights have been violated in any way should immediately report the matter to their Human Resource Business Partner or the Bureau of Human Resources. Any health information related to family leave, medical leave or safe leave is confidential and is maintained in the employee's medical file rather than their personnel file. Employees have the right to file an administrative charge with the Oregon Bureau of Labor and Industries or a lawsuit in Circuit Court if they believe their rights under the law have been violated.

## **History**

Interim Rule Effective September 5, 2023

Adopted by the Acting Director of the Bureau of Human Resources on March 5, 2024.



**City of Portland Core Values:**

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**Purpose**

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**Administrative Rule History**

Approved by Interim Rule on September 5, 2023

Permanent Rule Effective March 5, 2024 approved by the Acting Bureau of Human Resources Director with no substantive content changes from Interim Rule.

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